

# MEMO ENDORSED

May 27, 2020

## RECONSIDERATION MOTION FOR 18 U.S.C. 3582 (c)(1)(A)

I, the defendant James Whitted requests that the court reconsiders the denial on May 21, 2020, the reasons set forth will be listed.

1.) The court ruled on my precious motion 18 U.S.C. 3582 (c)(1)(A) that asthma wasn't in the top 10 on the C.D.C.'s list of high risk conditions and in fact it is listed as number 2. I was diagnosed with asthma as an infant and have had it all my life. I currently use two different asthma pumps to treat it, they are Albuterol and Astamanex. I have in addition to asthma have been diagnosed with obesity. Per the C.D.C. this puts me at high risk for contracting COVID-19 and having respiratory problems. See case law granting relief for asthma in the 2nd Circuit.

US v. Ardila, 3:03-cr-00264-SRV, (2020 C. D. Conn. May 1, 2020)

US v. Williams 3:17-cr-121 (VAB)-1, 2020 (D. Conn. Apr. 24, 2020)

US v. Park 1:16-cr-00473-RA-1, 2020 (S.D. NY Apr. 24, 2020)

US v. Gileno 3:19-cr-161 (VAB), 2020 (D. Conn. Apr. 17, 2020)

US v. Smith 1:12-cr-00133-JFK-1, 2020 (S.D. NY Apr. 13, 2020)

US v. Wen 6:17-cr-06173-EAW, 2020 (W. D. NY Apr. 13, 2020)

US v. McCarthy 3:17-cr-00230-JCH-1, 2020 (D. Conn. Apr. 8, 2020)

US v. Hernandez 1:18-cr-00834-PAE-4, 2020 (S.D. NY Apr. 2, 2020)

See case law for granting relief for obesity in the 2nd Circuit.

US v. Handy 3:10-cr-00128-RNC-8, 2020 (D. Conn. May 14, 2020)

US v. Foreman 3:19-cr-0062-VAB-1, 2020 (D. Conn. May 11, 2020)

US v. Quintero 6:08-cr-06007-DGL-1, 2020 (W.D. NY May 6, 2020)

US v. Ardila 3:03-cr-00264-SRV-1, 2020 (D. Conn. May 1, 2020)

US v. Delgado 3:18 -cr-00017-VAB, 2020 (D. Conn. Apr. 30, 2020)

US v. Zukerman 1:16-cr-00194-AT-1, 2020 (S.D. NY Apr. 3, 2020)

2.) In 2018 as the Court is duly aware already I was granted medical bail to get my injuries taken care of. I was sentenced on 3-18-19, I was told that I would be able to continue my physical therapy and it has yet to happen. I self surrendered on June 25, 2019. While on Home Confinement I went to every physical therapy and doctors appointment. I did everything I was supposed to do while remaining compliant with all rules given to me as well as being a law abiding citizen. My main concern was getting better. I have fluid on my spine that needs surgery that I have never gotten to and due to that it has grown in pain and has caused me to lost strength in my bladder causing frequent unriation. I am not a danger to the community. I just want a chance to be on home confinement to finish my sentence and not get sick from COVID-19 because of my health conditions. I can't lose weight and I can't get the physical therapy I so desperately need. I need a chance to get healthy and be a better person. I have seen things here in jail that I have never seen before.

I sincerely have no intention of ever committing a crime or causing issues again. I can't stress enough that I am not in the best of health and am not a danger to the community. I am just a person who wants to get healthy again and be with my family in a time like this.

3.) I know my charge is serious and I am very sorry for my actions. I really need a chance. I am a good person and made some dumb decisions. I have spent most of my life in jail. I don't want this in my life. I am not the greedy and selfish person I once was. I have grand kids that are around the same age as my kids were when I first went to jail. I came home and they were all grown up, my son was in prison, and my daughter was homeless. I don't want that to happen again, they need me. The difference now is I'm not in good health. I just want a chance to do what is right. I am married now and I have my wife that is there for me and is caring for my grandson. I am truly sorry for my crime and I do need this chance to finish my time under Home Confinement. I need the proper medical treatment and I need to see a doctor that can help me with my medical issues.

4.) There is a class action lawsuit here at F.C.I. Danbury, Connecticut. On May 12, 2020 a Federal Judge (Judge Shea) ruled that F.C.I. Danbury was negligent and violated the 8th Amendment rights of cruel and unusual punishment. The staff continuously shows unprofessionalism, adopts its own ideologies against what the C.D.C. has elicited, lacks all empathy for prisoners despite the call from the Director of the B.O.P. Michael Caraval. Attorney General Barr singled out the F.C.I. Danbury in early April as being one of the institutions that were given priority for release of vulnerable inmates. The way we live, with a lack of medical assistance, poor diet, cramped living conditions that prevent us from social distancing, and constantly indoors combined with my medical conditions is a recipe for me contracting this disease and never making it home to my responsibilities and family. If possible will you look into this most urgent matter.

#### REQUEST FOR RECONSIDERATION RELIEF

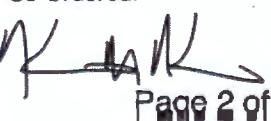
Defendant humbly requests that the Court reconsider its last decision and asks the Court to look over my medical condition. The Defendant requests to be released to Home Confinement, so he may seek appropriate medical care and not inter the virus COVID-19 while detained at F.C.I. Danbury with his existing medical conditions.

Motion for Reconsideration is Denied. There is nothing in this motion that raises a fact or legal authority that the Court ignored in denying Mr. Whitted's previous compassionate release motions. Indeed, he has not cited anything to suggest that the conditions at Danbury have worsened since his last application was denied.

James Whitted

The Government is to mail a copy of this memo endorsement to Mr. Whitted and certify that it did so by 6/26/20.

/s/

So Ordered.  
  
6/22/20  
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James Whitted 83830-054  
FCI Danbury  
Federal Correctional Institution  
Route 37  
Danbury, Ct 06811

May 27, 2020

Honorable Judge Kenneth M. Karas  
US District Judge Southern District of NY  
300 Quarropas Street  
White Plains, NY 10601

RE: James Whitted 83830-054  
Reconsideration Motion For 18 U.S.C. 3582 (c) (1) (A)

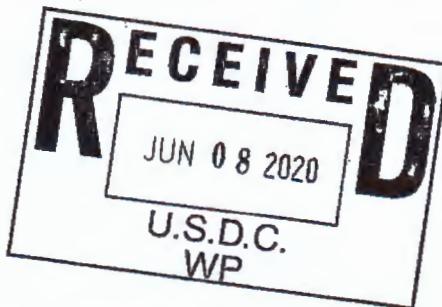
Dear Honorable Judge Karas;

I am writing this letter to you in regards to resubmitting my motion for reconsideration for the denial on May 21, 2020.

I sincerely appreciate you reviewing my motion and any consideration you grant to me in regards to the motion.

Sincerely,

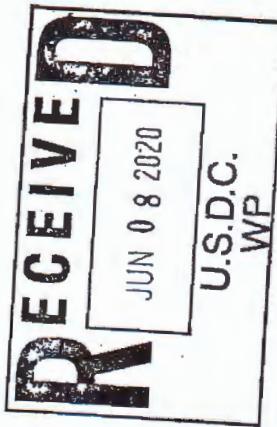
  
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James Whitted



James Whitted 83830-054

FCI Danbury  
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Route 37  
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USMWP  
SDNY



Honorable Judge Kenneth M. Karas  
US District Judge Southern District NY  
300 Quarropas Street  
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